

REMARKS

The applicant respectfully requests reconsideration in view of the amendment and the following remarks. The applicant has amended claims 1, 14 and 17 in order to overcome the 35 U.S.C. 112, second paragraph rejections.

Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-10, 12, and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Crass et al., USPN 4,786,533 ("Crass"). Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murschall et al., USPN 5,436,041 ("Murschall"). Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Speith-Herfurth et al., USPN 6,811,886 ("Speith-Herfurth"). Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cretekos et al., USPN 6,087,015 ("Cretekos"). The applicant respectfully traverses these rejections.

Rejections under 35 U.S.C. 112

Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The applicant believes that the claims as amended are in compliance with 35 U.S.C. 112, second paragraph.

In relation to the viscosity and the temperature, the applicant's specification clearly refers to DIN 53019 and DIN 53018 (see §0068 of the published US application US 2006/0222867) wherein it is exactly specified how the viscosity needs to be measured. The applicant has informed the undersigned that DIN 53019 and DIN 53018 disclose that the viscosity is measured at 23°C.

Cretekos also refers to a viscosity in the claims (see claims 1 and 6) to define his invention without any reference to a temperature, neither in the claims nor in the specification. Cretekos does not even disclose a method for measuring the viscosity which obviously was not considered to be a 35 U.S.C. §112 issue.

With respect to claims 14 and 17, the applicant has amended these claims and believes that these claims are in compliance with 35 U.S.C. §112, second paragraph. For the above reasons, this rejection should be withdrawn.

Rejections under 35 U.S.C. 102(b)

Claims 1-10, 12, and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Crass. The applicant's claimed invention is different from Crass in that the applicant applies a cold seal adhesive coating onto silicon oil containing cover layer. Crass discloses that the silicon oil containing top layer can optional be a cold seal layer. The cold seal layer and the silicon oil containing layer is one and the same layer in Crass (see claim 15 of Crass). The applicant claims, first a silicon oil containing layer and a second cold seal layer applied onto said silicon oil containing layer. Accordingly, the applicant's structure is base layer/top layer with silicon oil/cold seal layer whereas Crass discloses base layer/cold seal layer with silicon oil.

Therefore Crass also does neither disclose nor suggests applying a cold seal layer on to the surface of a silicone oil containing layer.

A further difference between the applicant's claimed invention and Crass is in the viscosity of the polysiloxanes. The applicant claims a polydialkyl siloxane having a viscosity of **at least 200,000 mm²/second** determined according to DIN 53018 and/or DIN 53019. The DIN 53019 and DIN 53018 discloses that the viscosity is measured at 23°C. Crass discloses

"the polydialkylsiloxane has a kinematic viscosity of from about 1,000 to **100,000 mm²/sec** at 25⁰ C., and preferably of from about 5,000 to **50,000 mm²/sec** at 25⁰ C." (emphasis added)

Obviously though Crass measures at 25°C such temperature difference will not double the value of the viscosity. Therefore, it is very clear that Crass uses silicon oil having a different viscosity. Crass teaches away from the applicant's claimed invention. For the above reasons, this rejection should be withdrawn.

Rejections under 35 U.S.C. 103(a)

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murschall.
Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Speith-Herfurth.
Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cretekos.

Polysiloxanes are known in the art as lubricants or release agent for polypropylene films. It is known that the polysiloxanes migrate to the surface of the film in order to provide the anti-adhesive effect or in order to improve the lubricating properties. The silicone oil reduces the adhesion of the film surface in relation to other surfaces or layers with which the film is brought into contact.

Surprisingly, the cover layer containing the silicone oil may nonetheless be coated with a cold sealing adhesive if the film is additionally modified with a hydrocarbon resin in the base layer. In this way, the lubricating properties of the base film (uncoated film without cold seal adhesive) may be advantageously improved by the silicone oil, but surprisingly the film may simultaneously be coated surprisingly well with cold sealing adhesive.

One of ordinary skill in the art would have expected that the cold seal coating would not adhere to the top layer modified with a release agent. It has been found that multiple factors must be fulfilled in order to ensure that the good adhesion of the cold sealing adhesive on the top layer surface are ensured in spite of silicone oil being incorporated in the top layer. Firstly, as already described, the base layer must be modified with a resin and, in addition, the silicone oil must have a viscosity as defined in the applicant's claim 1.

Obviously none of the cited prior art references suggest in any way that the base film may be modified with a silicon oil and still be coated with a cold seal layer if and only if the base layer is modified with a hard resin AND the silicon oil has a specific viscosity of at least 200,000 mm/sec².

Other than Crass, all the other references are completely silent with respect to any cold seal layer and again Crass discloses to apply cold seal layer as a coextruded layer on top of the base layer. The Examiner has confirmed the other prior art references do not disclose anything about cold seal adhesive (see page 6, lines 1-4, page 7, lines 4-7, and page 8, lines 6-8 of the Office Action). However, the applicant claims a film with a cold seal coating applied onto a top layer. Assuming that it might have been state of the art to use cold seal layers in general, such knowledge does not suggest providing a cold seal adhesive onto a top layer containing a release

agent, such a polydialkylsiloxane as is claimed by the applicant. For the above reasons, these rejections should be withdrawn.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

A two month extension fee has been paid. Applicant believes no additional fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 05581-00142-US from which the undersigned is authorized to draw.

Dated: February 13, 2009

Respectfully submitted,

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